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Convention on the Rights of the Child

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Committee on the Rights of the Child

Consideration of reports submitted by States parties under article 12 (1) of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography

Reports of States parties due in 2013

New Zealand*

[Date received: 24 July 2014]

* The present document is being issued without formal editing.

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I. Introduction

1. The New Zealand Government is pleased to present to the Committee on the Rights of the Child (the Committee) New Zealand's initial report under the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (the Optional Protocol), submitted under article 12, paragraph 1 of the Optional Protocol. New Zealand signed the Optional Protocol on 7 September 2000, and ratified it on 20 September 2011. In accordance with article 14, paragraph 2, the Optional Protocol came into effect in New Zealand on 20 October 2011.

2. The New Zealand Government remains strongly supportive of, and has a continuing commitment to, the promotion and protection of the rights enunciated by this Optional Protocol. New Zealand's efforts to implement the Optional Protocol contribute further to implementing the Convention on the Rights of the Child (the Convention), in particular articles 1, 11, 21, 32, 34, 35 and 36.

Preparation and structure of the report

3. This report has been prepared in accordance with the Committee's revised guidelines regarding initial reports to be submitted by States parties under article 12, paragraph 1 of the Optional Protocol.[1] This report should be read in conjunction with New Zealand's core document, and Combined Third and Fourth Periodic Report submitted in 2008.[2] As per article 12, paragraph 2, of the Optional Protocol, updated information will be included in New Zealand's Fifth Periodic Report on the Convention, due in May 2015.

4. This report makes reference to New Zealand's Combined Third and Fourth Periodic Report (the Periodic Report) where required information has already been submitted to the Committee. In respect for the guidelines and page limitations, this report does not contain an exhaustive list of measures undertaken by the New Zealand Government. The reporting period for this report is September 2011 to December 2013.

Consultation with civil society

5. The New Zealand Government sought the views of civil society in the drafting of this report during a four week targeted consultation period, received six submissions, and took these views and suggestions into account as appropriate. Government officials also met with representatives of the Convention on the Rights of the Child Monitoring Group to discuss the Group's feedback on the report, and to address their specific questions. Following submission to the Committee, the final report will be published on the Ministry of Social Development (MSD) website alongside existing Convention documents.

External territories

6. New Zealand supports Tokelau to ensure that the provisions and protections afforded to children in Tokelau match those guaranteed to New Zealand children under the

[1] Adopted by the Committee at its forty-third session, on 29 September 2006: CRC/C/OPSC/2 (3 November 2006).

[2] Considered by the Committee at its fifty-sixth session, on 19 January 2011: CRC/C/NZL/3-4 (14 June 2010).

Convention. New Zealand is also preparing to begin consultations with the Government of Tokelau on extending the Convention and its Protocols to Tokelau.

II. General measures of implementation

Legal status of the Optional Protocol

7. It is New Zealand's policy that a treaty is only ratified or acceded to once any legislation required to implement it has been passed by the New Zealand Parliament. New Zealand enacted a number of important changes to legislation to incorporate the provisions of the Optional Protocol into domestic law prior to ratification on 20 September 2011.

Films, Videos and Publications Classification Act 1993

8. In 2001, the New Zealand Government recognised that the definition of "supply" in the Films, Videos and Publications Classification Act 1993 was too narrow to fully comply with article 5, paragraph 3, of the Optional Protocol to include all situations where objectionable material is disseminated, distributed, offered, or possessed. The Films, Videos and Publications Classification Amendment Act 2005 broadened the coverage of the Films, Videos and Publications Classification Act 1993 and ensures that these activities are covered by an extraditable offence for which the maximum penalty is imprisonment for a term not exceeding 10 years.

The Prostitution Reform Act 2003

9. Section 48(1)(a) of the Prostitution Reform Act 2003 repealed section 149A of the Crimes Act 1961 and broadened the prohibition on engaging children in prostitution. The Prostitution Reform Act 2003 prohibits offering, obtaining, procuring or providing a person less than 18 years of age for prostitution, and complies with article 3, paragraph 1, of the Optional Protocol. These offences have extraterritorial effect by virtue of section 144A of the Crimes Act 1961.

Crimes Act 1961

10. In 2005, section 98AA was inserted into the Crimes Act 1961 which created offences prohibiting "dealing in children for the purpose of sexual exploitation, the removal of body parts, and engagement in forced labour". These offences are punishable by a term of imprisonment not exceeding 14 years and have extraterritorial application.

Adoption Act 1955

11. The Adoption Amendment Act 2011 inserted sections 27A to 27D into the Adoption Act 1955, creating the offence to improperly induce consent for the adoption of a child, punishable by imprisonment for a term not exceeding seven years. Section 27D extends extraterritorial jurisdiction "in respect of offence under section 27A as required by Optional Protocol".

Role of statutory ombudsmen for children or similar

12. The Children's Commissioner's Act 2003 implicitly compels the Children's Commissioner to monitor the application of the Convention and its Protocols by the Government, and report on the Convention.

State strategy for the implementation of the Optional Protocol

13. MSD is the lead government agency responsible for the implementation of the Convention and its Protocols. The Social Sector Forum Deputy Chief Executives[3] co-ordinate work across the social sector, including work relevant for children. In addition, MSD senior officials meet with representatives of the Convention on the Rights of the Child Monitoring Group monthly.

14. New Zealand's expenditure on children and young people is split between numerous budgets. There is no means of determining funding only allocated to children and young people across government agencies.

The Children's Action Plan and Green and White Papers for Vulnerable Children

15. In 2011, the New Zealand Government released the Green Paper for Vulnerable Children, a discussion document on ways to better protect the country's children from abuse and neglect. There were 9,985 submissions to the Green Paper, including over 2,000 from children. These submissions informed the 2012 White Paper for Vulnerable Children, a strategic overview of children's interests in New Zealand, and the Children's Action Plan, a living document that informs New Zealanders about what action is being taken to protect children and when each milestone will be achieved.

16. The Children's Action Plan establishes local Children's Teams to bring together professional people from the health, education and social services sector to develop a single response plan to help and support each vulnerable child. The first demonstration sites are in place in two North Island areas, Rotorua and Whangarei, with eight more sites planned for 2014 and 2015. The Children's Teams are currently being evaluated site by site, on an ongoing basis. A New Zealand-wide evaluation is planned for 2017.

National Plan of Action against the Commercial Sexual Exploitation of Children

17. New Zealand presented a National Plan of Action against the Commercial Sexual Exploitation of Children (the Plan) at the Second World Congress against Commercial Sexual Exploitation of Children in Japan in 2001, shortly after New Zealand signed the Optional Protocol. The document, titled Protecting Our Innocence[4] identified thirteen action points that New Zealand undertook to implement in addressing CSEC. No individual agency was formally tasked with reporting on how New Zealand was progressing the Plan.

18. In 2005, ECPAT Child ALERT[5] collaborated with the Ministry of Justice to produce a stocktake reporting on progress towards the action points in the Plan. Some of the action points had been completed by the time the stocktake was taken and others were identified as ongoing. Steps taken prior to ratification of the Optional Protocol have progressed a number of points in the Plan, for example, the establishment in 2005 of a new offence relating to the trafficking of people under 18.

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[3] The Social Sector Forum Deputy Chief Executives is a vehicle for cross-agency leadership and action for tackling complex social issues and includes Deputy Chief Executives from all social sector government agencies.

[4] Access the document here: http://www.justice.govt.nz/publications/publications-archived/2002/protecting-our-innocence.

[5] ECPAT stands for "End Child Prostitution, Child Pornography, Child Sex Tourism and Trafficking in Children for sexual purposes." ECPAT Child ALERT aims to prevent the commercial sexual exploitation of children and youth, through research, education and public awareness.

Interagency Working Group on People Trafficking and Plan of Action

19. New Zealand's National Plan of Action to Prevent People Trafficking is a proactive whole-of-government approach to people trafficking issues for New Zealand, published in 2009. The Plan of Action does not contain any child-specific action points, however, child-specific protection policies are provided for in Immigration New Zealand's Operational Manual, under the Residence Category for victims of people trafficking.

20. The Interagency Working Group on People Trafficking monitors the Plan of Action. The Working Group is chaired by the Ministry of Business, Innovation and Employment (MBIE) and includes the Department of the Prime Minister and Cabinet, the New Zealand Customs Service, the New Zealand Police, and the Ministries of Foreign Affairs and Trade, Justice, Health, Social Development, and Women's Affairs.

Specialised cross-agency cooperation

21. Three specialised New Zealand agencies ensure children are protected from sexual exploitation through a set of Working Protocols:

- The Censorship Compliance Unit of the Department of Internal Affairs (DIA) is the main agency for the investigation of the manufacture, possession of and trading in child sexual abuse material. The Censorship Compliance Unit conducts online investigations into the trading of objectionable images on peer to peer networks.
- The Online Child Exploitation Across New Zealand team (OCEANZ) of the New Zealand Police was established in October 2009 with the goals of safeguarding and rescuing child victims or potential victims from online child sexual exploitation and identifying offenders.
- The New Zealand Customs Service Child Exploitation Operations Team (CEOT) is a specialised criminal investigation unit responsible for the enforcement of the prohibition on the import and export, including via the internet, of objectionable publications into and out of New Zealand.

22. Under the Working Protocols, the agencies are jointly responsible for freely sharing information held for investigative purposes, making investigative and forensic resources available upon request, and standardising affidavits, warrant applications and sentencing submissions. The Working Protocols look to strengthen future implementation by requiring the three agencies to attend collective yearly training to ensure best practice, and by sharing new software applications. The most recent training session was in March 2013.

III. Data

23. Information on New Zealand's method of data collection is available in the Periodic Report, paragraphs 79 to 91.

Available data on the sale of children in New Zealand

24. There have been no reported cases regarding the sale of children since the Crimes Amendment Act 2005 created the offence prohibiting "dealing in children for the purpose of sexual exploitation, the removal of body parts, and engagement in forced labour".

People trafficking

25. New Zealand's record on trafficking issues within New Zealand's borders indicates government's commitment to deter, prevent and punish illegal activity of this type is

working. New Zealand enforcement authorities have yet to uncover any evidence or indication of people trafficking despite a number of investigations by both Police and Immigration New Zealand officials.

Available data on child prostitution in New Zealand

26. Data collection to assess levels of the involvement of children and young people in prostitution is difficult because underage prostitution is hidden, difficult to identify, difficult to prove, and because engaging persons under 18 for prostitution is illegal.

27. The most current data available is a study by Abel, Fitzgerald and Brunton, from the Christchurch School of Medicine.[6] In 2007 they completed a study that surveyed 773 individual sex workers across five cities and towns. Of the 773, 1.3% (10) were under the age of 18 at the time of the study. It should also be noted that of the 773 sex worker participants, 18.3% (141) said they had started sex work under the age of 18. Of the total number of respondents, 23.8% (184) had worked as sex workers for more than 10 years, although the average length of time in the sex industry was between 2-4 years.

28. A five year review of the Prostitution Reform Act 2003, tabled in Parliament in May 2008, found no evidence of an increase in the numbers of underage persons used in prostitution since it came into force, based on this study. Data on prosecutions and convictions under the Prostitution Reform Act 2003 also gives an indication of the level of underage prostitution (refer to Annex 5).

Sex tourism

29. OCEANZ continue to work collaboratively with the DIA and the Customs Service to address transnational child sex offending online. In each case where a New Zealander is involved, they are also considered for the possibility of physical offending both in New Zealand and offshore.

30. Sex offenders travelling to New Zealand are placed on a border alert, profiled upon their arrival by New Zealand Airport Police and, referred to Immigration New Zealand for consideration of allowing entry. Returning New Zealanders are spoken to and profiled where possible. Voluntary DNA is requested where it is not already held or where a New Zealander has been deported back for criminal offending. Notifications and intelligence regarding known sex offenders travelling overseas are sent offshore, via the Interpol National Central Bureau in Wellington, New Zealand (Interpol Wellington).

Available data on child pornography in New Zealand

31. The New Zealand Police have noticed a significant increase in self-produced child abuse material as a result of online grooming and "sextortion" for further images. The Police have also observed a significant increase, internationally, around the live streaming by webcam of the sexual abuse of children. It is difficult to assess the trends in this type of offending given the covert nature of it.

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[6] Abel, G., Fitzgerald, L., & Brunton, C., (2007). *The impact of the Prostitution Reform Act on the health and safety of sex workers*. Christchurch: Otago University, Christchurch School of Medicine, available from http://www.justice.govt.nz/policy/commercial-property-and-regulatory/prostitution/prostitution-law-review-committee/publications/impact-health-safety/documents/report.pdf.

32. The DIA runs a Digital Child Exploitation Filtering System (the Filter). The system is operated in partnership with New Zealand's internet service providers (ISPs). The majority of ISPs have signed up to the system, including all of the main providers. The system currently filters 578 sites that contain child sexual abuse material. An Independent Reference group maintains oversight of the Filter. The Filter is proving to be effective in terms of blocking New Zealanders accessing websites that focus on child abuse imagery. It acts purely as a preventative measure and no information on the identity of the user is collected.

Investigations for relevant offences

33. Between July 2011 and February 2014, the DIA received 908 requests to action intelligence on New Zealand suspects of child pornography related offences. During this time they forwarded 623 offender package requests to overseas enforcement jurisdictions.

34. OCEANZ has a close working relationship with international law enforcement agencies from many different countries and has contact with overseas enforcement agencies on a daily basis. Since its establishment in 2009, OCEANZ has received approximately 500 requests for assistance from overseas agencies and has sent approximately 350 requests for assistance overseas.[7] Referrals to New Zealand are usually due to a victim or an offender being in New Zealand. Referrals sent by New Zealand are usually the result of OCEANZ identifying and targeting offenders.

Convictions for child pornography offences

35. In the year to 30 June 2013, there were 15 offenders convicted of child pornography offences under the Films, Videos and Publications Classification Act 1993. A further 24 cases were lodged. In the year to 30 June 2012 there were 18 offenders convicted of child pornography offences. A further 24 cases were lodged.

- Of the 15 child pornography related convictions in the 2013 period; all involved the possession of objectionable material; seven involved the distribution of objectionable material; and two involved the making of objectionable material.
- Of the 18 convictions in the 2012 period; all involved the possession of objectionable material; seven involved the distribution of objectionable material; and one involved the making of objectionable material.

36. The DIA has a 99 per cent conviction rate.

IV. Prevention (art. 9, paras. 1 and 2)

Children who are especially vulnerable

37. In September 2012, the Ministry of Women's Affairs published the research Lightning Does Strike Twice: preventing sexual revictimisation which found that sexual repeat victimisation, or "revictimisation" has profound cumulative impacts on long term outcomes, such as heightened vulnerability to other forms of victimisation, poorer mental,

[7] These statistics are approximate figures only. They are taken from informal records from the team and do not reflect official New Zealand Police statistics or include those generated at a district level without OCEANZ involvement.

physical and sexual health, higher use of health services and higher rates of unemployment.[8]

38. A review of international literature completed by MSD found that characteristics commonly cited by international research as either potential causes or as factors that increase a child or young person's vulnerability to prostitution include sexual abuse, running away (or homelessness), substance abuse, family dysfunction, neglect and physical abuse, mental ill-health (including post-traumatic stress disorder), poor educational engagement, and having been in state care.

39. These characteristics may be direct causes (for example, running away may result in the need to exchange sex for goods) or indirect (for example, family dysfunction may make a child vulnerable to prostitution, but not actually cause it). Children and young people in Child, Youth and Family (CYF) care (statutory care and protection and youth justice residences) are more likely to be at greater risk of becoming involved in prostitution, as they are likely to have been exposed to these underlying risk factors.

40. The Government works to mitigate the cumulative effect of these risk factors through the Children's Action Plan, and a number of educational, social, financial and health programmes described below.

Children's Action Plan

41. To address the issues for vulnerable children, the Minister for Social Development led development of the Green and White Papers for Vulnerable Children and the Children's Action Plan. Legislative measures are now being enacted to implement these changes. Initiatives include:

- Reinforcing the need for shared responsibility and co-ordinated and collaborative action across government social services sector to better protect vulnerable children.
- Ensuring children are safe with those that work with them through a new standard safety check requirement for the children's workforce.
- Enhancing the response to children who have already been abused and neglected to increase the chances of better long term outcomes.
- Ensuring transition out of state care is well managed and supported.

Educational, social, financial and health programmes

42. New Zealand also recognises that leaving the formal education system early is a risk factor for increased vulnerability. The Youth Guarantee programme focuses on engaging more young people in learning that is relevant, retaining them in education, and building bridges between the worlds of school and work. There is a particular focus on lifting achievement for Māori and Pasifika students, and students from communities with fewer resources.

43. The Youth Service was established in 2012 to support vulnerable young people, including those leaving care, to transition to sustainable independence. The Youth Service has two streams:

- The Youth Payment and Young Parent Payment Service for 16 and 17 year olds and 16 to 18 year old parents who are in receipt of a main benefit.

[8] Access this document at: http://mwa.govt.nz/documents/lightning-does-strike-twice-preventing-sexual-revictimisation-2012.

- The NEET (not in employment, education or training) Service for at risk 16 and 17 year olds (and some 15 year olds) who are NEET or at risk of being NEET.

44. This is a new approach to working with vulnerable young people where community-based providers deliver wraparound support to unemployed or disengaged young people and teen parents in order to improve their educational, economic and social outcomes. The initiative targets more than $148 million to vulnerable youth over four years.

45. The Ministry of Health funds District Health Boards (DHBs) to provide hospital-based family violence prevention systems. DHBs adopt this general health screening approach because victims of abuse are more likely to be seeking care for a range of seemingly routine health problems, such as pregnancy, illness, sexual assault and injury.

46. The Ministry of Health also funds the New Zealand Prostitutes Collective (NZPC) to provide a national public health promotion service to ensure those in the sex industry have access to information, resources and assistance to maintain personal safety and that legislation, policy and practices in relation to prostitution reflect an enlightened public health approach. On occasion the NZPC reports on trends around underage prostitution, but this is not a specific target.

Public awareness and training

47. The New Zealand Police provide a number of programmes in schools to raise awareness and teach prevention through personal safety. Specific cyber-safety lessons are included in the Kia Kaha (Stay Strong) and Keeping Ourselves Safe programmes, which are delivered or supported by Police School Community Officers in around 80 per cent of schools each year.

48. The Accident Compensation Corporation (ACC) has developed a best practice secondary schools-based healthy relationships programme to teach young people skills to prevent sexual and dating violence. The programme will be piloted in selected secondary schools around the country in July 2014. It will be taught across school years 9 to 13 by trained specialist facilitators and, once evaluated, ACC aims for it to be made nationally available.

49. The Ministry of Education funds Netsafe to provide advice to schools on internet safety, protocols and social media. More information on internet safety is provided in New Zealand's Periodic Report, from paragraph 172. The DIA has also enjoyed a long partnership with Netsafe, initially assisting development of their education arm. The DIA works with Netsafe on the Organisations Reporting Button (ORB). The public go to Netsafe to report a variety of offences. Offences under censorship or anti-spam legislation come through to the DIA and this process has operated for approximately three years.

People trafficking

50. The main focus of New Zealand's Plan of Action on People Trafficking is prevention. The Plan provides for a consistent and coordinated response to people trafficking and includes targeted awarness-raising. MBIE recently introduced and publicised measures to encourage victims of migrant labour exploitation to come forward, including a specialised phone queue to the Labour Contact Centre. The channel for making complaints was publicised in multiple languages, through front-line non-governmental organisations, unions, community law centres and other migrant support organisations.

51. MBIE trains frontline staff on trafficking indicators and victim interviewing techniques, and compliance staff to recognise indicators of people trafficking. This is done prior to every compliance operation in the sex industry and whenever there is a possibility

the operation may expose staff to trafficking activities. In addition, MBIE provides specific training to all refugee and protection officers. Health and safety officers and labour inspectors are trained on how to detect trafficking activities during their visits to workplaces.

Forced and/or underage marriage

52. The Ministry of Women's Affairs, DIA, including the Office for Ethnic Affairs, and the New Zealand Police are working together to increase their understanding and knowledge of forced and/or underage marriage, and to raise public awareness. Efforts include keeping an open dialogue with Shakti Women's Refuge[9] and the Indian High Commission. Family violence awareness campaigns, communications strategies, and resources have also been developed based on the Hindi language. Furthermore, education on forced marriage is provided to quota refugees as part of the reception programme at the Mangere Refugee Resettlement Centre, Auckland.

53. Education and awareness-raising also covers health professionals, service providers and social workers who have contact with these women and their communities. The New Zealand Police are increasing staff awareness of the forms of violence commonly associated with forced and/or underage marriage.

54. The Police use specialist investigators to engage with victims, including Child Protection teams and Adult Sexual Assault teams. Police engage with local communities to build trust and confidence, and to overcome preconceptions through Police Ethnic Liaison Officers, Community Constables and Neighbourhood Policing teams.

55. In December 2012, multiple government agencies signed a Letter of Agreement outlining a cross-agency response for victims of forced marriage in New Zealand. The signatories to the Letter of Agreement are: CYF, Work and Income, and Family and Community Services (service lines of MSD), the Ministry of Education, the New Zealand Police and Immigration New Zealand.

V. Prohibition and related matters (arts. 3; 4, paras. 2 and 3; 5; 6 and 7)

Legislative frameworks

Child prostitution

56. The Prostitution Reform Act 2003 decriminalised prostitution while not endorsing or morally sanctioning it or its use. The framework safeguards the human rights of sex workers, protects them from exploitation and promotes their welfare and occupational health and safety. It is not an offence for persons under the age of 18 to engage in prostitution, rather, they are considered to be victims.

57. The prohibition on use in prostitution of persons under 18 years is established by sections 20 to 23 of the Prostitution Reform Act 2003 which state that a person is liable to imprisonment for a term not exceeding seven years who: causes, assists, facilitates or encourages a person under 18 years in providing commercial sexual services; receives payment or other reward from commercial sexual services provided by a person under

[9] A specialist provider of culturally competent family violence support services for women, children and families of Asian, African and Middle Eastern origin.

18 years; enters into a contract, or other arrangement, under which a person under 18 years of age is to provide commercial sexual services to or for that person or another person; or receives commercial sexual service from a person under 18 years.

Forced and/or underage marriage

58. In 2009, a Parliamentary Petition was lodged by Jane Prichard and 46 Others requesting that "the House of Representatives examine the practice of cultural marriages to underage females and initiate legislation that will effectively intervene in the prevention of abuse arising out of such marriages in New Zealand." The Justice and Electoral Select Committee considered the Petition and released its report in 2010.[10]

59. The 2011 Government response to the Justice and Electoral Select Committee report noted that cultural marriages are not legal marriages and are likely to be kept hidden.[11] The Government has been unable to identify the nature and extent of forced and underage "marriages" in New Zealand because any such marriage would take place without a licence or approved celebrant, and would not be registered. Anyone who is involved in a forced or underage marriage should be reported to the Police for an investigation of offences against the Crimes Act 1961 (e.g., kidnapping, slavery or various sexual offences) or the Marriage Act 1955.

60. The New Zealand Government has comprehensive protections in place to ensure the consensual nature of marriage. Other than two exemptions (Quakers, and a small Christian Church), all marriages must be conducted by a listed celebrant approved by the Registrar-General under the Marriage Act 1955. A Registrar cannot issue a licence if a person is under the age of 16. A celebrant or Registrar must not knowingly solemnise a marriage for someone under age 16, or under 18 without both the parties' and the parents' consent. A marriage can be declared void if the person's consent was obtained by duress.

61. More recently, the Concluding Observations made by the United Nations Committee on the Elimination of Discrimination against Women in 2012 expressed concern about reports of forced and/or underage marriage in New Zealand. The New Zealand Government remains aware of this as a potential issue and is monitoring the number of marriages involving people under the age of 18, which are reducing. Figures are attached in Annex 1. The Government also considers that it is important to continue to focus on education and building relationships of trust with migrant and other groups so they understand and respect the law and the rights and values of people living in New Zealand.

People trafficking

62. In addition to the Plan of Action to Prevent People Trafficking and the Interagency Working Group, there is comprehensive legislation that covers offences associated with people trafficking crimes. These include measures to punish abduction, kidnapping, rape, engaging underage prostitutes, coercing prostitutes, and exploiting workers. In New Zealand, the trafficking penalties are comparable to rape and murder: imprisonment for up to 20 years or a fine of $500,000, or both.

63. New Zealand has recently reviewed its legislative framework on trafficking issues and concluded that the definition of trafficking should be more closely aligned with the definition in the United Nations Protocol to Prevent, Suppress and Punish Trafficking In

[10] Access the Justice and Electoral Select Committee report at http://www.parliament.nz/en-nz/pb/sc/documents/reports/49DBSCH_SCR4916_1/petition-200852-of-jane-prichard-and-46-others.

[11] Access the Government response at http://www.parliament.nz/en-nz/pb/presented/papers/49DBHOH_PAP21185_1/government-final-response-to-report-of-the-justice-and.

Persons, Especially Women and Children. The refined definition will remove the transnational element of the current trafficking offence and ensure that that the use of an "exploitative purpose" is covered as a means of trafficking in persons.

Child pornography

64. Child pornography (child abuse material) is prohibited as an objectionable publication under the Films, Videos and Publications Classification Act 1993. The term "objectionable publication" is a generic description of material that also includes offensive adult pornography, depictions of torture and bestiality.

65. New Zealand is currently working on a package of law reforms designed to emphasise the seriousness of child exploitation material and send a strong message that the exploitation and abuse of children will not be tolerated. The changes also aim to future-proof the offences against unforeseen advances in technology.

66. The Objectionable Publications and Indecency Legislation Bill was reported back from Select Committee on 22 April 2014. Its proposals include: increasing the maximum penalty for possession of an objectionable publication from 5 years to 10 years imprisonment; increasing the maximum penalty for distributing or making an objectionable publication from 10 years to 14 years imprisonment; creating a presumption of imprisonment for repeat offenders so that any person convicted of an objectionable publication offence involving child exploitation material for a second time will be sentenced to a term of imprisonment; and creating a new offence of indecent communication with a child.

The Hague Convention and intercountry adoption

67. The Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (the Hague Convention) was incorporated into domestic law through the enactment of the Adoption (Intercountry) Act 1997. New Zealand acceded to the Hague Convention in 1999. The Chief Executive of MSD is the New Zealand Central Authority for the purposes of the Hague Convention. New Zealand has international adoption programmes with seven Hague Convention contracting States.

68. The Protocol for the Transfer of Care and Protection Orders and Proceedings and Interstate Assistance is an additional measure taken by New Zealand and Australia to ensure the lawful movement of children across borders. The framework is based on the principle that all parties to it operate on a basis of mutual respect and co-operation for the benefit of the children to whom it applies

69. For an overseas adoption outside the Hague Convention framework to be recognised in New Zealand, it must meet the requirements of section 17 of the Adoption Act 1955 (i.e. it must be legally valid in the country where the order was made and give the adoptive parent specific rights in relation to day-to-day care and inheritance). For a child adopted overseas outside the Hague Convention framework to be eligible for New Zealand citizenship, the requirements of the Citizenship Act 1977 must be met. For example, in relation to citizenship by descent, these include that the child was under the age of 14 at the time of the adoption and, in most situations, that one of the adoptive parents was a New Zealand citizen otherwise than by descent.

70. In the event that an application is lodged in the New Zealand Family Court in relation to a private intercountry adoption from a Hague Convention contracting State, the New Zealand Central Authority will retrospectively apply processes that are consistent with the Hague Convention in respect to articles 15, 16 and 17. If the overseas Central Authority cannot engage with articles 16 and 17, the New Zealand Central Authority is unable to meet

its obligations under article 17 and approve the adoption to proceed. For private intercountry adoption applications lodged in the New Zealand Family Court for children from a non-contracting State, the New Zealand Central Authority endeavours to seek information from that State which would meet the requirements of article 16 of the Hague Convention.

71. Where the prospective adoptive parents know or are related to the child (known as "relative" or "identified-child" adoptions), the New Zealand Central Authority considers these adoptions on a case-by-case basis and conducts them in accordance with the Hague Convention and relevant legislation. In practice, relative and identified-child adoptions will only be facilitated in a very limited number of cases.

72. The Adoption (Intercountry) Act 1997 allows for the delegation of functions to accredited organisations or "accredited bodies," to provide intercountry adoption services. The required standards for these organisations are set by the Chief Executive of MSD, and meet the requirements of the Hague Convention, and the United Nations Convention of the Rights of the Child.

Laws in force covering and defining the acts and activities in article 3, paragraph 1

73. A full list of offences relevant to the Optional Protocol that provide protection to children is attached as Annex 4.

Criminal liability of legal persons

74. Section 2 of the Crimes Act 1961 states that "person, owner, and other words and expressions of the like kind, include the Crown and any public body or local authority, and any board, society, or company, and any other body of persons, whether incorporated or not". The statutory wording or nature of an offence, sexual or otherwise, may mean that a company cannot incur liability as a principal offender; however accessorial liability may be possible.

75. Liability may also be explicitly stated in any Act. For example, section 139 of the Films, Videos, and Publications Classification Act 1993 provides that "where any body corporate is convicted of an offence against that Act, every director and every officer concerned in the management of the body corporate shall be guilty of the offence, provided the offence took place with that person's knowledge, authority, permission, or consent".

Jurisdiction and extraterritoriality

76. Jurisdiction for the offences covered by the Optional Protocol is established by section 5 of the Crimes Act 1961 which provides that the Act "applies to all offences for which the offender may be proceeded against and tried in New Zealand" and "to all acts done or omitted in New Zealand".

77. Sections 6 and 7 of the Crimes Act 1961 deem acts occurring outside New Zealand are within the jurisdiction of the New Zealand Courts if any part of the offence, or any event necessary to the completion of the offence occurs in New Zealand, even if the person charged was not in New Zealand at the time of the act or event. Section 8 of the Crimes Act 1961 also extends jurisdiction to crimes committed on ships or aircrafts beyond New Zealand.

78. Extraterritorial jurisdiction may also be established by the express words of a Crimes Act 1961 provision or other statute. For example, section 145A of the Films,

Videos, and Publications Classification Act 1993 explicitly provides for extraterritorial jurisdiction for "certain offences as required by the Optional Protocol".

Extradition and legal basis for international cooperation in criminal matters

79. The framework for New Zealand's formal international cooperation in criminal matters is currently governed by the Mutual Assistance in Criminal Matters Act 1992 and the Extradition Act 1999, as well as numerous bilateral and multilateral treaties.

80. In 2014 the Law Commission will review the law relating to New Zealand's cooperation with other countries to improve and modernise this framework for the investigation and prosecution of crime. The Law Commission will consider whether the processes within these frameworks are efficient and effective, while also meeting essential human rights and procedural safeguards.

Extradition treaties

81. New Zealand has extradition treaties with Canada, the Czech Republic, Fiji, Hong Kong, South Korea, Tonga, and the United States of America. Since ratifying the Optional Protocol in 2011, New Zealand has not entered into any new extradition treaties nor adopted any new legislation concerning extradition. New Zealand is in the process of re-negotiating its extradition treaty with the United States.

Mutual Assistance in Criminal Matters Act 1992

82. New Zealand is able to make and receive formal mutual legal assistance requests under the Mutual Assistance in Criminal Matters Act 1992 (MACMA). From 2011 to 2013, there were six cases for offences relevant to the sexual exploitation of children.

83. Any country can make a request to New Zealand under MACMA for locating or identifying persons, arranging attendance of a person, executing search warrants, serving documents, enforcing restraining and forfeiture orders, and issuing warrants or orders. New Zealand can also make requests to other countries under MACMA for similar forms of assistance.

Extraditions

84. Extraditions for the New Zealand Police are coordinated and managed by the Interpol Wellington. Between 2011 and 2013, Interpol Wellington successfully extradited four men from Australia to New Zealand for offences relating to sexual offending against children.

85. One man is currently in custody in Australia contesting extradition to New Zealand for offences relating to sexual offending against children. Two men are currently before the Court in New Zealand contesting extradition to Australia, and one man is also before the Court in New Zealand contesting extradition to the United Kingdom, for offences similar to New Zealand's Crimes Act 1961 offences relating to sexual offending against children.

Interpol and Police to Police Assistance

86. The New Zealand Police regularly exchange information regarding investigations with their international counterparts through membership of Interpol. Most international requests for information or investigative assistance are channelled through Interpol Wellington, and processes are also in place to respond to informal (Police to Police) requests.

Seizure and confiscation

87. The Criminal Proceeds Recovery Act 2009 replaced the Proceeds of Crime Act 1991. It established a regime for the forfeiture of property that has been derived directly or indirectly from significant criminal activity, or that represents the value of a person's unlawfully derived income.

88. 68. Summarised information on seizure and confiscation of child exploitation materials for the 2011/2012 and 2012/2013 financial periods, by the Censorship Compliance Unit of the DIA, is available in Annex 2. All child abuse or child exploitation material seized under warrants is destroyed.

VI. Protection of the rights of victims (arts. 8 and 9, paras. 3 and 4)

Ensuring protection for the rights and best interests of child victims

89. Child witnesses are interviewed by a specialist trained interviewer from CYF, or the New Zealand Police. These interviews are video-recorded. Children and young people are offered the Court Education for Young Witnesses service, part of the Court Services for Victims service delivered by Victim Advisers. Information for parents, carers, family and whānau[12] of young witnesses can also be accessed online in 13 languages.[13]

90. In 2011, the New Zealand Cabinet agreed to a number of reforms relating to child witnesses that included a legislative presumption in favour of pre-recording the entire evidence of child witnesses under 12 years of age and introducing a right to a support person. Following these decisions, the Law Commission reviewed the operation of the Evidence Act 2006 and released the report The 2013 Review of the Evidence Act 2006.[14] In November 2013, following the Law Commission's review, Cabinet agreed to progress a number of changes relating to child witnesses, and to rescind other decisions that were no longer appropriate.

91. The Evidence Amendment Bill will introduce a legislative presumption that witnesses (including complainants, but not defendants) under the age of 18 give their evidence via the video record of their evidential interview where available or via the other alternative ways of giving evidence set out in the Evidence Act 2006. The Bill will also introduce a right for all child witnesses to have a support person with them when giving evidence. The Bill is expected to be introduced this year. These changes will align the Evidence Act 2006 more closely with the requirements of article 3, paragraph 1, and article 39 of the Convention, and further implement the UN Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime.[15]

Immigration

92. Child victims of people trafficking may be granted visas to stay in New Zealand depending on the circumstances and risk of re-victimisation. All applications under

[12] Te Reo Māori word meaning "family".

[13] http://www.justice.govt.nz/publications/global-publications/p/parents-and-whanau-of-young-witnesses/publication.

[14] A copy of this report can be found on the Law Commission's website www.lawcom.govt.nz.

[15] Adopted by the UN Economic and Social Council in 2005.

trafficking policies are determined by Immigration New Zealand officials who have received specialist training in this category. Determination of an application by a child applicant is based on "best interest of the child" considerations established on a case-by-case basis with advice from CYF. More information on ways agencies operate in the "best interest of the child" is available in the Periodic Report (from paragraphs 124-126).

Where a victim's age is unknown

93. The identification and rescue of vulnerable children, both in New Zealand and globally, are the main priorities of the Working Protocols signed by the Censorship Compliance Unit, CEOT and OCEANZ. Agencies often encounter images classed as "age difficult" where confirming the age of a victim is challenging. These agencies follow Interpol's standards for the investigation of the age of the victim.

94. In addition, section 441 of the Child, Young Persons and their Families Act 1989 allows the New Zealand Court to determine or "fix" the age of the child in the absence of sufficient evidence. An application for a young person to be placed in the guardianship of the Court can be made if the young person is under 18 (Court guardianship expires at age 18).

Training for those working with child victims

95. Current guidelines for those working with child witnesses can be accessed on the Ministry of Justice website.[16]

96. Child witnesses must be questioned in Court in a way that is appropriate and takes into account the witness or victim's age in the phrasing and style of question, particularly during cross-examination. If a child does not understand the question, accurate and reliable evidence is unlikely to be obtained from them. In 2014, the Ministry of Justice will work with the judiciary and the New Zealand Law Society to improve the availability of guidance, education and training for the judiciary and lawyers on how best to question and cross-examine child witnesses.

Programmes for child victims of sale, prostitution and pornography

97. Children hurt by crime and trauma, including any victims of sexual exploitation, can access help from Victim Support. This 24/7 service is free of charge throughout New Zealand. Volunteers are carefully selected and receive quality training on all aspects of providing supports to victims of crime and trauma.

Victims' Rights Act 2002

98. The Victims' Rights Act 2002 was reviewed in 2009. As a result of that review, the Victims of Crime Reform Bill was introduced in 2011. It contains amendments to enhance victims' rights and role in criminal justice processes and to improve the responses of government agencies to victims of crime by:

- Strengthening the accountability of criminal justice agencies by introducing a Victims' Code which will provide victims with information on the services available, their rights, and the duties and responsibilities of criminal justice agencies.

[16] http://www.justice.govt.nz/publications/global-publications/n/national-guidelines-for-agencies-working-with-child-witnesses/publication.

- Requiring criminal justice agencies to record specific information on the services provided to victims, complaints received, and how they were resolved and requiring this information to be included in their annual report to Parliament.

99. The Ministry of Justice provides Court Victim Advisors and specialist Sexual Violence Court Victim Advisors throughout New Zealand to assist victims while their cases progress through Court. A Victims Centre was established within the Ministry of Justice on 1 July 2011, as part of the Government's review of victims' rights in the criminal justice system. The purpose of the Centre is to reduce victimisation and improve services to victims of serious crime by connecting victims with services and informing them of their rights.

Support, counselling and other treatment for victims

100. The New Zealand Accident Compensation Corporation (ACC) funds support, counselling and other treatment, as part of its Sensitive Claims services, for children and young people who may have suffered a mental injury as a result of sexual abuse or assault. ACC can also provide cover for injuries sustained overseas if the injured individual is "ordinarily resident" in New Zealand. Figures for sensitive claims lodged in the 2012 and 2013 financial years are attached in Annex 3.

101. In addition to support, counselling and other treatment, clients may be eligible for medical care, rehabilitation services and financial entitlements. The reforms contained in the Objectionable Publications and Indecency Legislation Bill referred to in paragraphs 71 and 72 will extend cover to child victims for mental injury caused by sexual grooming and the proposed new offence of indecent communication with a young person.

102. In late 2012, the ACC Sensitive Claims Service Redesign was launched in order to fully deliver on the recommendations of an independent review in 2010 and to deliver services that are fully responsive and client-centred. ACC has developed the new end-to-end Integrated Services for Sensitive Claims (ISSC), which will offer clients more tailored packages of services. The ISSC is scheduled to go live in November 2014.

103. The Ministry of Health, New Zealand Police and ACC co-fund Sexual Assault Assessment and Treatment Services. These provide medical and forensic services, delivered by medical professionals trained by Doctors for Sexual Abuse Care, to survivors of sexual abuse or assault across New Zealand. An individual does not need to lodge a sensitive claim to access these services.

104. ACC produces a number of pamphlets to inform clients of, among other things, their rights to privacy, to access to their personal information, to appeal a cover decision, and to make a complaint. ACC's communications with clients are governed by the Code of ACC Claimants' Rights.

Sexual Violence Funding Ministerial Review

105. As part of a Review of Specialist Sexual Violence Services, the Minister for Social Development announced in Budget 2014, $10.4 million of funding over the next two years. The extra funding will stabilise and support frontline crisis-response services, community-based treatment services, services for male survivors and people accessing medical and forensic services.

106. Parallel to the Ministerial Funding Review, a Select Committee Inquiry was launched in 2013 into the funding of specialist sexual violence social services. The Inquiry will consider the funding of specialist services and whether they reflect an integrated approach to service delivery, full coverage and best practice, and assess whether services

for Māori and other diverse ethnic communities are accessible, culturally appropriate, and sustainable.

VII. International assistance and cooperation (art. 10)

International arrangements

107. New Zealand has mutual assistance treaties with South Korea, China and Hong Kong.

108. New Zealand recently signed a Preventing and Combating Crime Agreement with the United States of America that enables the United States of America and New Zealand to cooperate more closely in order to prevent and combat crime, primarily by sharing data more effectively between the two countries for law enforcement purposes. The Agreement has yet to be ratified.

Agency to agency cooperation

109. CEOT shares information and intelligence and conducts joint operations both domestically and internationally with various law enforcement agencies that are dedicated to combating child sexual abuse exploitation. CEOT recently presented at the International Centre for Missing and Exploited Children Conference held in Auckland and also has an excellent working relationship with the United States based National Centre for Missing and Exploited Children.

110. The New Zealand Police are a board member of the Virtual Global Task Force and represent the New Zealand Customs Service and the DIA within the task force.

111. Operation Hyper is an example of a recent high-profile New Zealand Customs Service led joint operation with the New Zealand Police and the DIA. The operation also involved the United Kingdom National Crime Agency's Child Exploitation and Online Protection Centre, the West Yorkshire Police, the West Midlands Police, the United States Immigration and Customs Enforcement and the Federal Bureau of Investigation. The investigation concerned the distribution of child sexual abuse material.

Limitations

112. The Government is currently working to introduce a sex offender register. This will ensure Police and Corrections have accurate, up to date information for assessing and managing the risk to public safety. In the meantime the Customs Service receives intelligence from Police Districts nationally in relation to convicted child sex offenders and online offenders, and targets such offenders travelling internationally.

Steps to promote international cooperation and coordination

Regional or international organisations

113. New Zealand agencies are at the forefront of sharing information and expertise with other countries in the Asia Pacific region. New Zealand Police officers are currently posted in Beijing, Jakarta and Bangkok. These officers help with the flow of information regarding potential New Zealand offenders in Asia.

114. DIA also chairs the Interpol Working Group which is responsible for the development of new forensic tools for international law enforcement regarding internet crimes against children. DIA also provides training in the use of these new tools to overseas

investigative agencies. An example is a recent visit to South Korea to train their legal and investigative teams.

Anti-trafficking and the Bali Process

115. Much of New Zealand's participation in anti-trafficking measures takes place within the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime initiative, of which New Zealand is an active member. Recent involvement includes:

- In June 2013, New Zealand hosted a Bali Process workshop on Irregular Migration in Auckland. The workshop discussed the challenges that exist in relation to sharing immigration information and intelligence.
- In January 2012, New Zealand attended a Bali Process workshop on Protection for Victims of Trafficking held in Kuala Lumpur, co-hosted by the Malaysian Ministry of Home Affairs and the International Organisation for Migration, and attended by over 100 participants from 30 different countries.
- In 2012, two senior government officials attended a Senior Officials Meeting of the Bali Process Ad Hoc Group in Bali, and a technical experts' workshop on Combatting Trafficking in Persons, co-hosted by Indonesia and Australia.
- New Zealand currently has an Immigration New Zealand staff member seconded to the Bali Process Regional Support Office in Bangkok.
- In February 2014, Immigration New Zealand hosted a delegation from the United Nations Office on Drugs and Crime. The delegation gave a presentation on their work programme, including intelligence on smuggling and trafficking patterns globally.

116. New Zealand also has regular interactions with United States of America officials around their Trafficking in Persons report and information sharing initiatives. United States Secretary Napolitano visited New Zealand in May 2012 and signed a joint statement committing to work together to protect people in the Pacific, so that they are better equipped to detect and identify victims of trafficking.

Development assistance to address root causes of vulnerability

The New Zealand Aid Programme

117. The New Zealand Aid Programme (the Programme) supports the protection of children in a number of direct and indirect ways. The Programme seeks to address the root causes of vulnerability, as directed by its mission statement, "to support sustainable development in developing countries in order to reduce poverty and to contribute to a more secure, equitable and prosperous world".

118. New Zealand provides funding for multilateral, regional and bilateral activities in developing countries. The Government contributes to multilateral organisations such as the Office for the High Commissioner for Refugees, the World Food Programme and UNICEF, which has a strong focus on child protection. In the year to 30 June 2013, New Zealand provided $6,000,000 as non-earmarked core funding to UNICEF and $2,084,986 in additional funding for a range of specified humanitarian and development activities.

Activities specifically related to child exploitation

119. In 2012, the New Zealand Aid Programme provided $2,000,000 to support the United Nations Inter-Agency Project on Human Trafficking in the Great Mekong Sub-region. Women and girls in this sub-region are particularly vulnerable to exploitation

through forced prostitution or domestic servitude. This activity is contributing effectively to increased cross-border and multi-disciplinary cooperation, more rigorous policy framework agreements, a deeper evidence base, increased focus on trafficking of children, and increased cooperation between civil society and governments.

VIII. Other legal provisions (art. 11)

Related human rights instruments

120. New Zealand is committed to the protection and promotion of international human rights, as embodied in the Universal Declaration on Human Rights and in the seven core human rights treaties that New Zealand has ratified. In addition, New Zealand ratified the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and the Protocol against the Smuggling of Migrants by Land, Sea and Air, on 19 Jul 2002.

121. New Zealand is a party to related International Labour Organisation Conventions including Forced or Compulsory Labour, 1930 (No. 29), Migration for Employment 1949 (No. 97), the Abolition of Forced Labour, 1957 (No. 105), and the Worst Forms of Child Labour 1999 (No. 182).

Additional human rights progress

122. The New Zealand Human Rights Commission is currently preparing New Zealand's Second Action Plan on Human Rights, a key human rights policy measure that will identify issues to consider over the next five years. The timing of this work programme has been carefully calibrated so that recommendations from New Zealand's recent 2nd Cycle Universal Periodic Review can inform the Second Action Plan.

Annex 1

Marriages involving persons under 18 years of age

Table 1
Marriages involving a person under 18 as a proportion of total marriages

	Count	*Total marriages*	*% under 18*
2009	82	23,346	0.35%
2010	78	23,066	0.34%
2011	67	21,278	0.31%
2012	37	22,770	0.18%
2013	57	21,695	0.29%

Table 2
Marriages involving persons under 18 breakdown by age and year

Bride under 18		
	Age 16	Age 17
2009	20	54
2010	22	48
2011	24	36
2012	8	23
2013	8	37
Bridegroom under 18		
	Age 16	Age 17
2009	2	12
2010	5	10
2011	7	7
2012	0	11
2013	5	14
Both parties to marriage under 18		
	Age 16	Age 17
2009	6	
2010	7	
2011	7	
2012	5	
2013	7	

Notes:
[1] Figures are based on marriages registered in 2009, 2010, 2011, 2012, and 2013, as at 27 February 2014, with the Department of Internal Affairs.

Annex 2

Seizure and confiscation of child exploitation material

Table 3
Summarised information on the seizure and confiscation of materials containing objectionable material relating to child sexual exploitation

	2011/12	*2012/13*
CD Roms	217	159
Videos	9	73
Computer Systems	99	51
Hard Drives	78	53
USB/ Flash Drives/Memory Stick/ SD cards	61	56
Computer Disks	126	101
Other Publications	7	4
Text Files/docs	37	55
Cameras and iPads	30	18
Cellphones	14	35
DVDs	5,061	2,986

Notes:
[1] Data provided by the Censorship Compliance Unit of the Department of Internal Affairs.
[2] DVDs include both unlabelled and objectionable items. The Censorship Compliance Unit indicated that, on average, approximately 80% of seized DVDs are just for labelling violations.

Annex 3

ACC Sensitive Claims for financial years 2012 and 2013 – Financial year 2012

Table 4
Number of ACC sensitive claims lodged in financial year 2012

Age at Lodgement	*Female*	*Male*	***Total***
Less than 17 years	805	192	**997**
18+ years	2,734	699	**3,433**
Total	**3,539**	**891**	**4,430**

Table 5
ACC sensitive claims lodged in financial year 2012 breakdown by ethnicity

Ethnicity	*Claim Count*	*Proportion*
Asian	65	1%
European	2,583	58%
Māori	1,361	31%
Other Ethnicity	119	3%
Pacific Peoples	183	4%
Not declared	119	3%
Total	**4,430**	**100%**

ACC Sensitive Claims for financial years 2012 and 2013 continued – Financial year 2013

Table 6
Number of ACC sensitive claims lodged in financial year 2013

Age at Lodgement	*Female*	*Male*	***Total***
Less than 17 years	926	203	**1,129**
18+ years	2,932	769	**3,701**
Total	**3,858**	**972**	**4,830**

Table 7
ACC sensitive claims lodged in financial year 2013 breakdown by ethnicity

Ethnicity	*Claim Count*	*Proportion*
Asian	79	2%
European	2,731	57%
Māori	1,528	32%
Other Ethnicity	114	2%
Pacific Peoples	257	5%
Not declared	121	3%
Total	**4, 430**	**100%**

Notes:

[1] It should be noted that circa 700 claims (16%) lodged per financial year are "duplicate" claims where the client has relodged a claim for the same event. This proportion of duplicate claims has remained at 16% for the past four financial years.

[2] For ethnicity statistics, ACC uses "Ethnicity Prioritisation" which assigns a single representative "ethnicity" to clients who declare two or more ethnicities at claim lodgement.

Annex 4

Criminal offences relevant to the Optional Protocol

Table 8
Criminal offences relevant to the Optional Protocol, by provision

Provision	*Offence prohibition*	*Penalty*
Adoption Act 1955		
S27A	Improperly inducing consent for the adoption of a child	7 years /$15,000 fine/both
S27(1)(a)	Unlawfully keeping child in home for purposes of adoption	3 months/$15,000 fine/both
S27(1)(b)	Unlawfully takes child out of New Zealand	3 months /$15,000 fine/both
S27(1)(c)	Fails to give notice of change in residence	3 months/$15,000 fine/both
S27(1)(d)	Payment in consideration of adoptions	3 months/$15,000 fine/both
S27(1)(e)	Unauthorised advertising	3 months/$15,000 fine/both
S27(1)(f)	Makes false statement for purpose of obtaining order etc.	3 months/$15,000 fine/both
Children, Young Persons and Their Families Act 1989		
S206	Taking child or young person out of New Zealand where proceedings pending	3 months/$2,000 fine
Prostitution Reform Act 2003		
S23	Breach prohibitions on use in prostitution of persons under 18 years (under S20, S21, S22)	7 years
Films, Videos and Publications Classification Act 1993 (In relation to Objectionable Publications)		
Strict liability offences		
S123(1)(a)	Makes an objectionable publication	Individual: $10,000 fine; body corporate: $30,000 fine
S123(1)(b)	Makes for the purpose of supply, distribution, display, or exhibition	Individual: $10,000 fine; body corporate: $30,000 fine
S123(1)(c)	Imports into New Zealand an objectionable publication for the purposes of supply or distribution	Individual: $10,000 fine; body corporate: $30,000 fine
S123(1)(d)	Supplies or distributes (including in either case by way of exportation from New Zealand)	Individual: $10,000 fine; body corporate: $30,000 fine
S123(1)(e)	Possession, for the purposes of supply or distribution	Individual: $10,000 fine; body corporate: $30,000 fine
S123(1)(f)	Displays or exhibits in expectation of gain	Individual: $10,000 fine; body corporate: $30,000 fine
Offences involving knowledge		
S124	Offence under S123(1) involving knowledge	Individual: 10 years; body corporate: $200,000 fine
S131	Possession of an objectionable publication	Individual: $2,000 fine; body corporate: $5,000 fine
S131A	Possession of an objectionable publication involving knowledge	Individual: $50,000 fine/ 5 years; body corporate: $100,000 fine

Provision	*Offence prohibition*	*Penalty*
Customs and Excise Act 1996		
S209(1A)(a)	Knowingly concerned in any importation, exportation, transportation, shipment, unshipment, or landing of an objectionable publication	Individual: 5 years; body corporate: $100,000 fine
S209(1A)(b)	Knowingly concerned in, or conspires to engage in, removal of an objectionable publication from Customs controlled area	Individual: 5 years; body corporate: $100,000 fine
Marriage Act 1955		
S58	Solemnise marriage contrary to provisions of the Act	5 years/$500 fine/both
S59	Falsely pretends to be a marriage celebrant and solemnises marriage	5 years
S60	False statements and improper solemnisation	2 years/$400 fine/both
Crimes Act 1961		
S98	Dealing in slaves	14 years
S98AA	Dealing in people under 18 for sexual exploitation, removal of body parts, or engagement in forced labour	14 years
S98C	Smuggling migrants	20 years/$500,000 fine/both
S98D	Trafficking in people by means of coercion or deception	20 years/$500,000 fine/both
S124	Distribution or exhibition of indecent matter	2 years
S125	Indecent act in public place	2 years
S128B	Sexual violation	20 years
S129	Attempted sexual violation and assault with intent to commit sexual violation	10 years
S129A(1)	Sexual connection with consent induced by certain threats	14 years
S129A(2)	Indecent act with consent induced by certain threats	5 years
S130	Incest	10 years
S131(1)	Sexual connection with dependent family member under 18 years of age	7 years
S131(2)	Attempts sexual connection with dependent family member under 18 years of age	7 years
S131(3)	Indecent act on dependent family member under 18 years of age	3 years
S131B	Meeting young person (under 16) following sexual grooming, etc	7 years
S132(1)	Sexual connection with child under 12	14 years
S132(2)	Attempted sexual connection with child under 12	10 years
S132(3)	Indecent act on child under 12	10 years
S134(1)	Sexual connection with young person under 16	10 years
S134(2)	Attempted sexual connection with young person under 16	10 years
S134(3)	Indecent act on young person under 16	7 years
S135	Indecent assault	7 years

Provision	*Offence prohibition*	*Penalty*
S144A	Sexual conduct with children and young people outside New Zealand	Same penalties as within New Zealand, see Crimes Act 1961 S132(1), S132(2), S132(3), S134(1), S134(2), S134(3), and the Prostitution Reform Act 2003 S23(1)
S144C	Organising or promoting child sex tours	7 years
S206	Bigamy	Without knowledge of other party: 7 years; with knowledge of other party: 2 years
S207	Feigned marriage or civil union	Without knowledge of other party: 7 years; with knowledge of other party: 2 years
S208	Abduction for the purposes of marriage or sexual connection	14 years
S209	Kidnapping	14 years
S210	Abduction of young person under 16	7 years
S216H	Makes intimate visual recording (without knowledge or consent of other party)	3 years
S216I	Possesses intimate visual recording (without knowledge or consent of other party)	3 years with knowledge; 1 year without knowledge
S216J	Publishing, importing, exporting, or selling intimate visual recording	3 years with knowledge or recklessness

Notes:

[i] The terms of imprisonment referred to above are maximums – New Zealand legislation rarely provides for minimum sentences.

Annex 5

Convictions for criminal offences relevant to the Optional Protocol

Table 9
Number of charges laid, by outcome, year and offence type

		Number of charges	
Year	*Offence description*	*Convicted*	*Not Convicted*
2011			
	Breach of prohibitions on use in prostitution of persons under 18 years	7	13
	Child sex tour offences	.	1
	Dealing in people under 18 for sex/body parts/forced labour	.	17
	Meeting young person following sexual grooming	26	65
	Sexual conduct with child outside New Zealand	.	2
	Sexual conduct with a child under 12	808	1,068
	Sexual conduct with a young person under 16	5	23
	Sexual conduct with a young person aged 12-16	737	968
	Other sexual offences against a child or young person	.	3
2012			
	Breach prohibitions on use in prostitution of persons under 18 years	25	11
	Child sex tour offences	1	.
	Dealing in people under 18 for sex/body parts/forced labour	19	6
	Meeting young person following sexual grooming	22	30
	Sexual conduct with child outside New Zealand	1	.
	Sexual conduct with a child under 12	760	1,155
	Sexual conduct with a young person under 16	7	2
	Sexual conduct with a young person aged 12-16	805	1,183
	Other sexual offences against a child or young person	2	1
2013			
	Breach prohibitions on use in prostitution of persons under 18 years	18	20
	Dealing in people under 18 for sex/body parts/forced labour	2	11
	Meeting young person following sexual grooming	45	55
	Sexual conduct with child outside New Zealand	.	3
	Sexual conduct with a child under 12	931	1,104
	Sexual conduct with a young person under 16	7	6
	Sexual conduct with a young person aged 12-16	962	1,018
	Other sexual offences against a child or young person	1	15

Table 10
Number of people charged, by outcome, year and offence type

		Number of people charged	
Year	*Offence description*	*Convicted*	*Not Convicted*
2011			
	Breach prohibitions on use in prostitution of persons under 18 years	1	3
	Child sex tour offences	.	1
	Meeting young person following sexual grooming	7	5
	Sexual conduct with child outside New Zealand	.	1
	Sexual conduct with a child under 12	191	212
	Sexual conduct with a young person under 16	2	1
	Sexual conduct with a young person aged 12-16	228	201
	Other sexual offences against a child or young person	.	3
2012			
	Breach prohibitions on use in prostitution of persons under 18 years	3	2
	Child sex tour offences	1	.
	Dealing in people under 18 for sex/body parts/forced labour	2	.
	Meeting young person following sexual grooming	8	3
	Sexual conduct with child outside New Zealand	1	.
	Sexual conduct with a child under 12	192	207
	Sexual conduct with a young person under 16	5	.
	Sexual conduct with a young person aged 12-16	258	213
	Other sexual offences against a child or young person	2	1
2013			
	Breach prohibitions on use in prostitution of persons under 18 years	5	1
	Dealing in people under 18 for sex/body parts/forced labour	1	1
	Meeting young person following sexual grooming	14	9
	Sexual conduct with child outside New Zealand	.	2
	Sexual conduct with a child under 12	196	173
	Sexual conduct with a young person under 16	3	1
	Sexual conduct with a young person aged 12-16	300	154
	Other sexual offences against a child or young person	1	3

Notes:

[1] If an individual commits more than one of the listed offences in a particular calendar year, they will be counted only once for their most serious offence.